

EXHIBIT 34

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In Re:

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Adv.Pro.No.
08-01789(BRL)

Debtor.

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IRVING H. PICARD, Trustee for the
Liquidation of Bernard L. Madoff
Investment Securities LLC,

Plaintiff,

Adv.Pro.No.
09-1182(BRL)

v.

J. EZRA MERKIN, GABRIEL CAPITAL,
L.P., ARIEL FUND LTD., ASCOT
PARTNERS, L.P., GABRIEL CAPITAL
CORPORATION,

Defendants.

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VIDEOTAPED DEPOSITION
OF JEFFREY M. WEINGARTEN

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TRANSCRIPT of testimony as reported
by NANCY C. BENDISH, Certified Court Reporter,
RMR, CRR and Notary Public of the State of
New York, at the offices of Baker Hostetler,
45 Rockefeller Plaza, New York, New York, on
Wednesday, July 15, 2015, commencing at 10:10 a.m.

1 client?

2 A. Well, if you're referring to the
3 Sheinman period, probably less so. Once I went
4 to Wertheim and I began specializing in a number
5 of industries, then, yes, I would generally
6 write up all of the companies in that industry.
7 I'd write reports on all of the companies in the
8 industry.

9 There were some, in some cases
10 they were either private, in which case I didn't
11 write them up, or they were too small for us to
12 do much with, and so I sometimes didn't write
13 those up as well. But I would still talk to
14 them.

15 Q. Okay. You said that you did this
16 research on companies. Did any of those
17 companies run hedge funds or fund of funds?

18 A. No. They were industrial
19 companies.

20 Q. And how long were you at Sheinman?

21 A. Let's see. So, it was two days
22 after I graduated, until -- I'd have to
23 remember. I think it was June or July, so maybe
24 it was about 15, 14, 15, months, something like
25 that.

1 about?

2 A. Yes.

3 Q. At any time when you were at
4 Wertheim did you ever conduct due diligence on a
5 hedge fund or a fund of funds company?

6 A. No. I'm trying to think if there
7 actually were even any hedge funds. There were
8 a few, but they were clients of mine.

9 Q. Okay.

10 A. So I had exposure to them but I
11 didn't do due diligence.

12 Q. While you were at Wertheim --
13 strike that. Let me take that back.

14 When did you leave Wertheim?

15 A. I left Wertheim end of July 1977.

16 Q. Okay. And where did you go after
17 Wertheim?

18 A. Goldman Sachs.

19 Q. Was there any break periods in
20 between going from Wertheim to Goldman?

21 A. I had about two or three days off,
22 I believe. I was supposed to have a week off
23 but I couldn't stand around doing nothing so I
24 went back to work.

25 Q. You couldn't think of a million

1 performance would be above a benchmark.

2 So they would provide you with a
3 hypothetical benchmark and say, for example, if
4 you were doing a global fund -- or, sorry, an
5 international fund, what would you expect your
6 performance would be above an international
7 stock market index. And we would provide an
8 answer, generally speaking, based on that.

9 Q. In your hypothetical, how would
10 you quantify how much you would be above what
11 the market would do?

12 A. Again, so that I'm clear, do you
13 want to know how we would arrive at a number
14 or --

15 Q. Yes.

16 A. Okay.

17 So, again, we would do it, getting
18 back to the fundamentals of what we did, which
19 was fundamental analysis of companies. And we
20 would -- and depending on the product, but most
21 of our products in the early stages were what I
22 would refer to as long-only product. They were
23 not hedge products.

24 So we would be very fully invested
25 on the long side, meaning that we would only

1 have long positions in our portfolio. And
2 because some of these, for example, were '40 Act
3 funds, we would have to be pretty fully invested
4 at all time. So we would have constant market
5 exposure.

6 And what we would say, and indeed
7 what we intended to do, since we always said
8 what we intended to do, and we always did what
9 we said we were going to do, was we would try to
10 identify businesses that would grow somewhat
11 faster than the economy, and had positions in
12 their industry that were consistently better
13 than their competitors, and try to buy those
14 securities at what we thought were no worse than
15 market valuations.

16 So that if we bought businesses
17 that did better and were priced attractively,
18 then we would be able to out-perform the index.

19 Q. Okay. And how did you quantify if
20 one business was going to do better than another
21 business?

22 A. Well, I'll take the time to
23 explain that, but...

24 So what we would attempt to do is
25 find businesses that were generating above

1 were -- other funds or other investments that
2 you had experience with?

3 A. I'd have to be sure of this, but
4 I -- as I remember, the track record that I had
5 at Goldman, because I ran funds at Goldman, I
6 don't remember being able to use that in any
7 sort of formal way.

8 So, I relied on my telling them
9 what I intended to do. I relied on telling them
10 how I intended to do it. I introduced them to
11 the people with whom I was going to do it, and
12 then made some comments as to the kinds of
13 returns I would expect to get out of this
14 product.

15 Q. And how did you determine the
16 kinds of returns that you expected to get out of
17 this product?

18 A. Well, again, this was slightly
19 different from what I was doing at Goldman
20 Sachs, because at Goldman Sachs I didn't have a
21 hedge fund product. So I was not able to and,
22 indeed in those days, partners of the firm
23 personally were not allowed to short.

24 So, I had not run a long-short
25 product. So I determined the long side so the

1 limited prior to the settlement?

2 A. I don't believe so.

3 MS. HOANG: Okay. Mr. Weingarten,
4 thank you very much for your time. I have no
5 further questions.

6 THE WITNESS: Thank you.

7 MR. STEINER: No questions.

8 THE VIDEOGRAPHER: This concludes
9 the deposition. The time is 6:38 p.m., going
10 off the record.

11 (Deposition concluded.)

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